

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: MIDLAND CREDIT
MANAGEMENT, INC., TELEPHONE
CONSUMER PROTECTION ACT
LITIGATION

Case No. 11-md-2286-MMA (MDD)

**ORDER GRANTING IN PART AND
DENYING IN PART THE PARTIES'
JOINT MOTION (1) TO FILE
OVERSIZED BRIEFS AND (2) FOR
LEAVE TO FILE PORTIONS OF
THE PARTIES' BRIEFS UNDER
SEAL**

[Doc. No. 778]

In this Multi-District Litigation (“MDL”), Lead Plaintiff Emir Fetai (“Fetai”) and Defendants Midland Credit Management, Inc., Midland Funding LLC, and Encore Capital Group, Inc. (collectively, “Defendants”) jointly (1) “move the Court for an order allowing the parties to file oversized . . . briefs . . . [in] Fetai’s upcoming motion for class certification” and (2) “request that the Court grant the parties leave to file portions of the class certification motion and briefs that refer to information that the parties have

1 designated as ‘confidential’ under seal.” Doc. No. 778 at 2.¹ For the reasons set forth
 2 below, the Court **GRANTS** in part and **DENIES** in part the parties’ joint motion.

3 **I. BACKGROUND**

4 Originating in 2011, the MDL comprises a lead class action member case and
 5 several dozen individual member cases alleging that Defendants violated the Telephone
 6 Consumer Protection Act (“TCPA”). *See* Doc. No. 1 at 1. Specifically, member
 7 plaintiffs aver that Defendants placed debt collection calls to member plaintiffs’ cell
 8 phones using an automated system, but without their consent. *See id.*; Doc. No. 571 at 1.
 9 On December 16, 2019, the Magistrate Judge issued an order rescheduling discovery and
 10 pretrial motion deadlines. Doc. No. 726. The Magistrate Judge’s order required any
 11 motion for class certification and any motion for summary judgment to be “filed no later
 12 than June 12, 2020.” *Id.* at 7. In light of the upcoming motion for class certification, the
 13 parties filed the instant joint motion.

14 **II. DISCUSSION**

15 **A. Request to File Oversized Briefing**

16 The parties “request that the Court grant leave for the Plaintiff and Defendant[s] to
 17 file briefs not in excess of 75 pages and for Fetai to file a reply brief not exceeding 30
 18 pages.” Doc. No. 778 at 2. The parties argue that the additional briefing is necessary
 19 because of the “significant and extensive factual record” that needs to be considered for
 20 the motion. *Id.* at 2.

21 Good cause appearing, the Court **GRANTS** the parties’ joint motion for leave to
 22 file oversized briefs. *See* CivLR 7.1.h. Accordingly, the Court **ORDERS** that (1) Fetai
 23 may file a memorandum of points and authorities in support of his motion for class
 24 certification, not in excess of seventy-five (75) pages; (2) Defendants may file a
 25 memorandum of points and authorities in opposition to Fetai’s motion for class

27 ¹ All citations refer to the pagination assigned by the CM/ECF system.
 28

1 certification, not in excess of seventy-five (75) pages; and (3) Fetai may file a reply
2 memorandum in support of his motion for class certification, not in excess of thirty (30)
3 pages.

4 The parties further note that they “stipulate and agree that Defendants shall
5 have at least 30 days to file their opposition. Before the class certification motion is filed,
6 the parties shall confer and agree upon a hearing date that is agreeable to the Court and
7 provides for at least a 30-day time frame for the opposition.” Doc. No. 778 at 3. Given
8 that the parties appear to request a special briefing schedule, the Court **ORDERS** that the
9 parties (1) confer on an agreeable hearing date and briefing schedule regarding the
10 opposition and reply briefs, and subsequently (2) move for a special briefing schedule on
11 or before **June 9, 2020**. The Court will then issue an order establishing the filing dates
12 for the opposition and reply briefs. This Order does not change the June 12, 2020
13 deadline to file a motion for class certification.

14 **B. Request for Leave to File Under Seal**

15 The parties further “request that the Court grant the parties leave to file portions of
16 the class certification motion and briefs that refer to information that the parties have
17 designated as ‘confidential’ under seal, pursuant to Local Rule 2.2.” Doc. No. 778 at 2.
18 The parties note that the briefs are likely to include “numerous, arguably confidential and
19 proprietary matters.” *Id.* at 3. The parties intend to file a redacted version for the public
20 and an unredacted version under seal for the Court. *See id.*

21 The parties cite to “Local Rule 2.2.” *Id.* at 2, 3. The parties appear to refer to
22 Local Rule 2.2 under the *Patent* Local Rules. *See Patent L.R. 2.2.* This MDL does not
23 involve patent infringement. Moreover, the parties have improperly moved to file
24 documents under seal. The parties have not adhered to the District’s Electronic Case
25 Filing Administrative Policies and Procedures Manual. Furthermore, the parties have not
26 made the necessary showing to support their request to file material under seal.

27 Therefore, the Court **DENIES** without prejudice the parties’ request for leave to
28 file portions of the class certification motion and briefs under seal. If the parties seek to

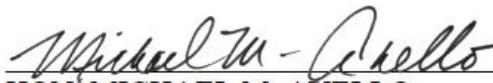
1 seal documents, the Court **INSTRUCTS** the parties move to seal at the time of filing the
2 proposed sealed document in accordance with the District's Electronic Case Filing
3 Administrative Policies and Procedures Manual § 2.j.

4 **III. CONCLUSION**

5 For the foregoing reasons, the Court **GRANTS in part and DENIES in part** the
6 parties' joint motion.

7 **IT IS SO ORDERED.**

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9 Dated: June 2, 2020

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12 HON. MICHAEL M. ANELLO
13 United States District Judge
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